**THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY**

**WRIT PEITION No. 27277 of 1995**

**Dated: 20.12.2006**

Between:

The Depot Manager,
APSRTC Bus Depot, Nizamabad.

… Petitioner

AND

M. Lingaiah & another.

… Respondents

**THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY**

**WRIT PETITION No. 27277 of 1995**

**ORDER:-**

The Depot Manager, A.P. State Road Transport Corporation, Nizamabad Depot, filed this writ petition questioning the Award of the Labour Court-II, Hyderabad, in I.D.No.310 of 1992 dated 19.11.1994 whereby it directed reinstatement of the petitioner with continuity of service, however, with half backwages.

The 1st respondent, who is a conductor in the A.P. State Road Transport Corporation (for short "the Corporation"), faced disciplinary proceedings on the basis of a check made by the officials of the Corporation on 20.06.1987 when he was conducting a service on route Nizamabad to Badsi. In all three charges were framed, which are as under:

> "1. For having failed to collect fare and issue tickets to 14 lady passengers found alighting without tickets, who boarded your bus at Sirupur and alighting at Nizamabad (check place), ex.stages 3 to 1, while you were conducting bus No.AAZ 1017 on 21.06.1987 on route Badsi.
>
> 2. For having closed the ticket tray numbers of all denominations in the SR up to stage No.1 (check place)

without completing the above referred ticket issues to the passengers, while you were performing your duty as referred in the above charge.

3. For having violated the rule 'issue and start' without having any valid reasons while you were performing your duty as referred in the above charge No.1."

The 1st respondent, on the basis of the enquiry report submitted by the enquiry officer after completion of enquiry, was removed from service on 19.12.1987. The appeal preferred by him having been rejected by the appellate authority, he approached the Labour Court, which disposed of the I.D. as aforementioned. It is this Award, which is under challenge in this writ petition.

The Labour Court has considered the evidence on record, in particular Ex.M2, the spot statements of the passengers, who stated that the 14 passengers from whom the 1st respondent failed to collect fare and issue tickets boarded the bus at Siripuram and that when they were alighting the bus at Nizamabad, the check was made. As they were not having tickets and the 1st respondent has not collected fares, the checking officials collected fares @
Rs.1.10 ps from each of them. The Labour Court also considered Ex.M6, the spot statement of the 1st respondent wherein it is mentioned that there was heavy rain and wind during the night on account of which he could not come out of the bus and that he had vomitings and loose motions. As the service was commenced early in the morning, he was practically not in a position to issue tickets.

Having regard to the aforementioned statements, the Labour

Court held that the punishment of removal from service is too harsh and disproportionate and does not commensurate with the gravity of misconduct committed by the 1st respondent. The punishment was thus modified by directing reinstatement and denying the 1st respondent half the backwages.

The learned counsel for the petitioner submitted that as the 1st respondent admittedly failed to issue tickets to 14 passengers, the order of removal does not suffer from any illegality and that the Labour Court was not justified in reinstating the 1st respondent into service. Though a notice was served on the 1st respondent, in view of expiry of his advocate, he has not chosen to appear.

Having considered the contentions of the learned counsel for the petitioner and having perused the record, I am of the considered opinion that the Labour Court, on the facts of the case, is justified in interfering with the quantum of punishment.

A perusal of the charges shows that there is no specific imputation of bad faith to the 1st respondent. It is no doubt true that failure to issue tickets to passengers and non-adherence to the rule 'issue and start' technically constitutes misconduct, however, in the matter of imposition of punishment the nature of misconduct is certainly a fact to be considered. It is not the case of the department that the 1st respondent in order to make a wrongful gain or misappropriate the money, collected fare and failed to issue tickets. At the earliest point of time, the 1st respondent has come out with the version that he was severely ill, suffering from loose motions. The possibility of the 1st respondent being ill cannot thus be totally ruled out. The Labour Court

has taken into consideration all these aspects in coming to the conclusion that the punishment of removal is too disproportionate to the gravity of misconduct and exercised its discretion, in my view, correctly by directing the reinstatement of the petitioner into service. While doing so, the Labour Court has denied the petitioner 50% of the backwages, which itself is a sufficient penalty for the negligence displayed by the 1st respondent in not issuing tickets to as many as 14 passengers. Apart from this, the petitioner was out of service for about 7 years between the date of his removal and reinstatement. I am therefore fully satisfied that the sufferance which the 1st respondent has undergone is sufficient qua the nature of misconduct he committed.

In the above circumstances, I do not see any reason to interfere with the Award of the Labour Court. The writ petition is accordingly dismissed. No order as to costs.

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**C.V. NAGARJUNA REDDY, J**

Date: 20.12.2006
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